

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

EDWARD KENT HAUERSPERGER, JR., §
A.K.A. EDWARD K. LAFONTAINE, #873197 §
§
VS. § CIVIL ACTION NO. 6:05cv479
§
MAIL ROOM PERSONNEL, ET AL. §

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the complaint should be dismissed pursuant to the “three strikes” provision of 28 U.S.C. § 1915(g). The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit. It is specifically noted that the nature of the Plaintiff’s claims that he has been illegally confined and denied access to banks, legal supplies, IRS forms, among other things, does not give rise to an inference that he is under imminent danger of serious physical injury in order to trigger the exception to the “three strikes” provision of 28 U.S.C. § 1915(g). In his objections, he argued that he should be permitted to proceed *in forma pauperis* because he has been subjected to

unlawful confinement, unlawful imprisonment and torture, although he has not shown that he was under imminent danger of serious physical injury at the time he filed the lawsuit. *See Banos v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998). Moreover, such allegations do not show that the claims that he raised in the complaint trigger the exception of § 1915(g). A claim about being tortured does not open the door for any and all claims to be considered by the Court. Finally, his claim about being tortured was vague and conclusory and insufficient for providing a basis to continue with his lawsuit. *See Arnaud v. Odom*, 870 F.2d 304, 307 (5th Cir. 1989); *Taylor v. Cockrell*, 92 Fed. Appx. 77, 78 (5th Cir. 2004). The Plaintiff's objections lack merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint is **DISMISSED** with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). The Plaintiff may resume his lawsuit if he pays the entire filing fee of \$250 within thirty days from the entry of this order. *See Carson v. Johnson*, 112 F.3d 818, 823 (5th Cir. 1997). It is further

ORDERED that all motions not previously ruled on are hereby **DENIED**.

SIGNED this 27th day of February, 2006.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE